

EXHIBIT A

To Defendants Shell Oil Company and Shell Oil Products
US, Inc.'s Joinder in Defendant United States Steel's
Motion to Exclude Plaintiff's Expert Robert Herrick

1

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

- - -

JAMES COPPAGE :
Plaintiff, : Civil Action
vs. : No.
: 1-18-cv-03823-
UNITED STATES STEEL : GLR
CORPORATION, et al., :
:
Defendants. :

- - -

November 21, 2019

- - -

Oral Deposition of ROBERT F.
HERRICK, Sc.D., CIH, FAIHA, taken pursuant
to Notice at Veritext-Boston, 101 Arch
Street, Suite 650, Boston, Massachusetts
02110, beginning at 9:09 a.m. before
Brigitte A. Strain, a Federally Approved
Registered Professional Reporter and Notary
Public.

- - -

VERITEXT LEGAL SOLUTIONS
NEW ENGLAND REGION

<p style="text-align: right;">Page 2</p> <p style="text-align: center;">2</p> <p>1 APPEARANCES:</p> <p>2</p> <p>3 LOCKS LAW FIRM, LLC</p> <p>4 BY: ANDREW J. DUPONT, ESQUIRE</p> <p>5 The Curtis Center, Suite 720E</p> <p>6 601 Walnut Street</p> <p>7 Philadelphia, Pennsylvania 19106</p> <p>8 215.893.0100</p> <p>9 ADupont@lockslaw.com</p> <p>10 Representing the Plaintiff</p> <p>11</p> <p>12 BARNES & THORNBURG, LLP</p> <p>13 BY: KEVIN D. RISING, ESQUIRE</p> <p>14 2029 Century Park East, Suite 300</p> <p>15 Los Angeles, California 90067-2904</p> <p>16 310.284.3880</p> <p>17 Representing the Defendant, Flint CPS Inks</p> <p>18 North America, LLC</p> <p>19</p> <p>20 DeCARO DORAN SICILIANO</p> <p>21 GALLAGHER & DeBLASIS LLP</p> <p>22 BY: ADAM PERRELLI, ESQUIRE</p> <p>23 17251 Melford Boulevard, Suite 200</p> <p>24 Bowie, Maryland 20715</p> <p>301.352.4968</p> <p>APERrelli@DeCaroDoran.com</p> <p>Representing the Defendants, T.H.</p> <p>Agriculture and Nutrition, LLC</p> <p>(Via Teleconference)</p> <p>17</p> <p>18 FISHKIN LUCKS, LLP</p> <p>19 BY: ANDREW P. FISHKIN, ESQUIRE</p> <p>20 One Riverfront Plaza</p> <p>21 Suite 410</p> <p>22 Newark, New Jersey 07102</p> <p>23 973.679.4428</p> <p>24 AFishkin@fishkinlucks.com</p> <p>Representing the Defendants, Ashland LLC and</p> <p>Union Oil Company of California</p> <p>(Via Teleconference)</p>	<p style="text-align: right;">Page 4</p> <p style="text-align: center;">4</p> <p>1 APPEARANCES (Continued):</p> <p>2</p> <p>3 MURCHISON & CUMMING, LLP</p> <p>4 BY: ERIC P. WEISS, ESQUIRE</p> <p>5 801 South Grand Avenue</p> <p>6 Ninth Floor</p> <p>7 Los Angeles, California 90017</p> <p>8 213.630.1057</p> <p>9 EWeiss@Murchisonlaw.com</p> <p>10 Representing the Defendant,</p> <p>11 Fujifilm Hunt Chemicals U.S.A., Inc.</p> <p>12 (Via Teleconference)</p> <p>13</p> <p>14 REED SMITH, LLP</p> <p>15 BY: STAN PERRY, ESQUIRE</p> <p>16 811 Main Street, Suite 1700</p> <p>17 Houston, TX, 77002-6110</p> <p>18 713.469.3847</p> <p>19 JPeles@reedsmith.com</p> <p>20 Representing the Defendant, Shell Oil</p> <p>21 Company and Shell Oil Products US</p> <p>22 (Via Veritext Virtual)</p> <p>23</p> <p>24 THE CAIRONE LAW FIRM PLLC</p> <p>BY: MATT CAIRONE, ESQUIRE</p> <p>PMB 58</p> <p>1900 Main Street, Suite 107</p> <p>Canonsburg, Pennsylvania 15318</p> <p>Mcc@Caironlaw.com</p> <p>724.416.3261</p> <p>Representing the Defendant, United States</p> <p>Steel Corporation</p>
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1 DEPOSITION SUPPORT INDEX

2 INSTRUCTION NOT TO ANSWER:

3 Page Line

4 None

5 REQUEST FOR PRODUCTION OF DOCUMENTS:

6 Page Line Description

7 None

8 STIPULATIONS:

9 Page Line

10 8 1

11 QUESTIONS MARKED:

12 Page Line

13 None

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ROBERT F. HERRICK, Sc.D., CIH, FAIH8

1 (It is hereby stipulated and

2 agreed by and among counsel for the

3 respective parties that an objection

4 by one defendant shall inure to the

5 benefit of all defendants.)

6 - - -

7 ROBERT F. HERRICK, Sc.D., CIH,

8 FAIHA, after having been first duly

9 sworn, was examined and testified as

10 follows:

11 - - -

12 EXAMINATION

13 - - -

14 BY MR. CAIRONE:

15 Q. Good morning, Dr. Herrick. How

16 are you?

17 A. Fine, thank you.

18 Q. I'm Matt Cairone. I represent

19 United States Steel Corporation.

20 Did you bring anything with

21 you today?

22 A. Yeah, I have a couple of

23 documents, which we can -- Should I get them

24 right now?

Page 9

ROBERT F. HERRICK, Sc.D., CIH, FAIH9

1 Q. Well, let me ask you. What

2 are those documents?

3 A. Well, one -- the main thing is

4 notes from a phone call I had with Mr.

5 Southworth, who was one of the co-workers.

6 And he answered some questions I had about

7 the solvent use.

8 Q. Is that in your report?

9 A. No.

10 Q. Why not?

11 A. Well, I just talked to him

12 yesterday.

13 Q. And so we're here to depose

14 you today and you're now giving us new

15 information that we've not had any access

16 to?

17 A. Well, it's actually -- He

18 confirmed things that are largely reflected

19 in the report. So it isn't as if there was

20 anything brand fresh and new that --

21 Q. So, there are no new

22 underlying facts that you got from Mr.

23 Southworth?

24 MR. DuPONT: Objection, form.

<p style="text-align: right;">Page 186</p> <p>ROBERT F. HERRICK, Sc.D., CIH, FAI186</p> <p>1 Q. Okay. Do you have the 2 deposition of Mr. Coppage handy?</p> <p>3 A. That I don't. I think -- if 4 we needed to get it, I think Andrew has it 5 on his computer.</p> <p>6 Q. Okay. Let me ask you some 7 questions and we'll see if I'm going to get 8 to it or not.</p> <p>9 To start with, in your expert 10 report, do you make any reference to any 11 Shell product?</p> <p>12 MR. DuPONT: Do you want to 13 bring up the report?</p> <p>14 THE WITNESS: No, I'm looking 15 at the report.</p> <p>16 The only Shell -- the only 17 time I mentioned Shell was in his 18 pre-newspaper career. He had worked 19 pumping gas at a Shell gas station 20 during the summer in 1960, but I 21 think that's the only mention.</p> <p>22 BY MR. PERRY:</p> <p>23 Q. I'm looking at that report 24 now. If you will, look at page two of your</p>	<p style="text-align: right;">Page 188</p> <p>ROBERT F. HERRICK, Sc.D., CIH, FAI188</p> <p>1 1960 and '61 Mr. Coppage worked for three 2 different gas stations?</p> <p>3 A. Yeah, I think that's right. I 4 did mention that on page two, three 5 different -- three gas stations.</p> <p>6 Q. That work in 1960 and 1961, 7 would you do a determination of how much of 8 that time, what percentage of his time was 9 spent at a Shell gas station as opposed to 10 the other two gas stations?</p> <p>11 A. Oh, I see. I don't think so. 12 He -- well, I may have. I'm just trying to 13 look through because he worked -- it may be 14 that he, in that two year period, 15 specifically at Shell, he worked in the 16 summer in 1960. So that would probably 17 equate to three or four months at Shell.</p> <p>18 Q. Okay. But as far as looking 19 at the total gas station work and saying he 20 was X percent at gas station A, Y percent at 21 gas station B, and Z at gas station C, you 22 did not do that type of determination of how 23 much time at each gas station?</p> <p>24 A. No, I didn't do that.</p>
<p style="text-align: right;">Page 187</p> <p>ROBERT F. HERRICK, Sc.D., CIH, FAI187</p> <p>1 report.</p> <p>2 A. Page two. Yeah.</p> <p>3 Q. You see in the first 4 paragraph, you reference, while working at a 5 Shell gas station. That's on page two, 6 correct?</p> <p>7 A. That's where I mention that. 8 Right.</p> <p>9 Q. Okay. Then you also reference, 10 on page 32, in the bottom paragraph, you do 11 an exposure assessment on the pumping gas 12 thing; correct?</p> <p>13 A. Yeah. I'm just going to it.</p> <p>14 Q. You see that?</p> <p>15 A. I do, yes.</p> <p>16 Q. Now, on the pumping gasoline 17 section, you do not make any reference to 18 Shell, do you?</p> <p>19 A. Oh, I see. No, you're -- let 20 me just flip them. No.</p> <p>21 Q. Okay. Did you look at Mr. 22 Coppage's Social Security records?</p> <p>23 A. I did, yes.</p> <p>24 Q. And did you notice that in</p>	<p style="text-align: right;">Page 189</p> <p>ROBERT F. HERRICK, Sc.D., CIH, FAI189</p> <p>1 Q. And it's your understanding 2 that his work at the Shell gas station was 3 in the summer of 1960?</p> <p>4 A. Yeah, that's my recollection. 5 I think he mentioned that specifically in 6 his deposition.</p> <p>7 Q. Then, in addition -- again, 8 I'm looking at page two of your report. 9 When Mr. Coppage did this service station 10 work, his duties included pumping gas, 11 greasing cars and fixing flats. Correct?</p> <p>12 A. Yeah, that's what he said.</p> <p>13 Q. Okay. Do you recall his 14 testimony on how many hours he worked per 15 day?</p> <p>16 You can look at page 32 of 17 your report if you want.</p> <p>18 A. Yeah. And I think what I said 19 there was, he was working 40 hours a week.</p> <p>20 Q. Okay. For that 40 hours a 21 week, did you make a determination of what 22 percentage of that 40 hours was spent 23 pumping gas, and what percentage of his time 24 was spent greasing cars, fixing flats,</p>

<p style="text-align: right;">Page 190</p> <p>ROBERT F. HERRICK, Sc.D., CIH, FAI190</p> <p>1 taking breaks, having lunch and doing 2 anything other than pumping gas? 3 A. Yeah, I don't think he -- you 4 know, he may not have been asked that, but 5 in any case, I don't remember that that was 6 some -- you know, that he was that specific 7 in his deposition. No. 8 Q. Okay. But it's clear that 9 during his work in service stations, Mr. 10 Coppage did not just pump gas. Correct? He 11 had other duties. Correct? 12 A. Right. Yes. 13 Q. Okay. So, if you look at page 14 32 of your report, when you say, if Mr. 15 Coppage worked eight hours per day pumping 16 gas, that's not actually accurate per his 17 deposition testimony; is it? 18 MR. DuPONT: Objection, form. 19 THE WITNESS: Well, what I 20 could have had is another sentence, 21 you know, to acknowledge that one 22 hypothetical would be if he worked 23 eight hours, he would have had this 24 exposure. If he had actually only</p>	<p style="text-align: right;">Page 192</p> <p>ROBERT F. HERRICK, Sc.D., CIH, FAI192</p> <p>1 know, I didn't try to do any work around his 2 smoking history, but I do remember that that 3 was mentioned. 4 Q. And that during at least part 5 of this time, he smoked a pack per day. Is 6 that your understanding? 7 A. I didn't really try to address 8 his smoking, but I wouldn't be surprised if 9 that isn't a number that he mentioned. Yeah. 10 Q. Were you aware also that his 11 wife smoked? 12 A. Actually, I wasn't. I don't 13 remember seeing that information. 14 Q. Did you calculate Mr. 15 Coppage's exposures, chemical exposures from 16 all of the carcinogens in cigarette smoke 17 not relevant? 18 I want this to be real clear 19 because there's two questions here. The 20 first question is, did you do an exposure 21 assessment of Mr. Coppage's chemical 22 exposures to any carcinogens in the 23 cigarette smoking? 24 A. No, I didn't.</p>
<p style="text-align: right;">Page 191</p> <p>ROBERT F. HERRICK, Sc.D., CIH, FAI191</p> <p>1 pumped gas for four hours, you know, 2 it would have been a corresponding, a 3 lower exposure. 4 BY MR. PERRY: 5 Q. Correct, but you just assumed 6 that for all of the eight hours each day, he 7 pumped gas the entire time. Is that correct? 8 A. That's the way this number 9 would be interpreted. Right. 10 Q. And this number meaning your 11 expert report? 12 A. That number that I wound up 13 associating for his cumulative benzene, that 14 3.2 part per million years, if it's actually 15 the case that he only worked pumping gas 16 four hours a day, you know, you would reduce 17 that correspondingly. 18 Q. By correspondingly, that would 19 drop it in one half, right? It would make 20 it half as much exposure? 21 A. Yes, it would. Right. 22 Q. Did you understand that Mr. 23 Coppage smoked from age 14 until age 46? 24 A. That sounds familiar. You</p>	<p style="text-align: right;">Page 193</p> <p>ROBERT F. HERRICK, Sc.D., CIH, FAI193</p> <p>1 Q. Did you do an exposure 2 assessment of Mr. Coppage's exposure from 3 benzene in his cigarette smoking? 4 A. I did not. 5 Q. Do you have the skill set, 6 both the training, the education and the 7 aptitude, to do an exposure assessment to 8 determine someone's chemical exposures from 9 smoking cigarettes? 10 MR. DuPONT: Form. 11 THE WITNESS: Well, there's -- 12 you know, I'm not completely familiar 13 with the literature out there, 14 although I know there is a fair 15 amount of information out there 16 that's been published and 17 peer-reviewed. I mean, I think if I 18 went back and got comfortable and, 19 you know, familiarized myself with 20 that, that I could do that sort of 21 calculation. Yeah. 22 BY MR. PERRY: 23 Q. Did you do that calculation 24 here?</p>